IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 43 (S/S) of 2004

1. Rajpal Singh, son of Dayal Singh, resident of Village – Kot Bichia, P.O. – Kot Malla, Tehsil and District – Rudraprayag.
2. Prem Singh Rana, son of Pramod Singh Rana, resident of Village and Post – Kanjashu, District – Chamoli.
3. Kunwar Ram Arya, son of Sri Budhi Ram Arya, resident of Village – Taragtel, Tehsil – Ranikhet, District – Almora.
4. Harish Chand Joshi, son of Sri Ganesh Dutt Joshi, resident of Village – Dhari Gaon, P.O. – Chhetra, Tehsil and District – Pithoragarh.
5. Surendra Singh Sah, son of Sri Trilok Singh, resident of Village – Gwar Talla, Patwari Circle – Gairsen.

…….Petitioners.

V e r s u s.

1. State of Uttaranchal through Secretary / Deputy Director, Sports Department, Dehradun.
2. Additional Director, Sports, Sports Directorate, Uttaranchal, Dehradun.
3. Assistant Director of Sports, Garhwal Mandal, Pauri, Pauri Garhwal.
4. Assistant Director of Sports, Kumaon Mandal, Haldwani, District – Nainital.

…….Respondents.

Hon'ble M.M. Ghildiyal, J.:

Heard Sri N.S. Negi, learned counsel for the petitioners and learned standing counsel, who has accepted notices on behalf of the respondents.

Learned counsel for both the parties are agree to decide the writ petition at its admission stage itself.

By means of issue this writ petition, the petitioners have prayed to issue a writ in the nature of Mandamus directing the respondents to regularize the services of the petitioners on which they are working for the last more than ten years and have further prayed that respondents may be directed to pay the minimum pay scale which is being given to the other regular employees working on the same post in the Sports Department , State of Uttaranchal.

Learned counsel for the petitioners has submitted that petitioners no. 1, 2 3 and 4 are working on Class IV posts with the Sports Department on daily wage basis since 11.11.1990, 12.06.1990, 18.05.1991 and 01.08.1992 respectively. On 27.09.1995, a seniority list of the employees working on the daily wage basis in Class IV in the Sports Department in different districts was published. On the basis of the decision of High Court the Sports Department also prepared a list of employees working on daily wage basis for regular appointment and names of the petitioners were also found place in that list. In spite of that, petitioners' services were not regularized by the Sport Department. Several representations have been made by the petitioners before the respondents. However, no heed was paid by the respondents on the representation of the petitioners. Petitioners are getting only Rs. 1105/- per month at present and the petitioners are not getting the minimum of pay scale even though the duties

performed by the petitioners are same to that of regular employees.

In para 4 of the counter affidavit, respondents have stated that they are being paid Rs. 1508/- per month and there is no post vacant on which the services of the petitioners can be regularized. It is further stated that as and when the posts are fell vacant or created the candidature of the petitioners shall be considered on priority basis and shall also be called for interview. It is further stated in the counter affidavit that State Government has already given relaxation in age in respect of the petitioners so that their cases may be considered for regularization.

In rejoinder affidavit, petitioners have denied the statement made in the counter affidavit. In para 5 of the rejoinder affidavit it is submitted that ten posts in Class IV cadre are sanctioned by the State Government and respondent no. 1 has already issued the advertisement on 27.06.2004 for same posts and have invited applications. The advertisement was published in daily newspaper Amar Ujala. Thus, the contention of the respondents that there is no post vacant till date in Sports Department against which the petitioners can be regularized is not correct.

Learned standing counsel has filed supplementary counter affidavit in which they have accepted that they have advertised the posts for filling up the vacancies in Class IV vide advertisement dated 27.06.2004. It is also stated that State Government has

already given relaxation in age to the petitioner and their case shall be considered at the time of interview.

In view of the aforesaid circumstances, petitioners case shall be considered for regularization against the aforesaid posts. Respondents are directed to first consider regularization of the services of the petitioners on the vacant posts advertised and thereafter, remaining posts may be filled by way of direct recruitment.

With this direction the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

August 2, 2005
SKSharma